THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

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WRIT PETITION NO : 9718 of 2001

TUESDAY, THE SECOND DAY OF AUGUST
TWO THOUSAND AND FIVE

Between:

Smt. Sanku Durgamba, W/o.Vithal Prasad,
residing at 27-11-32, Mary Street,
Governorpet, Vijayawada-2, Krishna District.

..... PETITIONER

AND

1 Vijayawada Municipal Corporation, Rep. by its Commissioner,
Jawaharlal Nehru Buildings, Vijayawada-520 001,
Krishna District.
2 Peddu Ranga Rao, S/o.Lakshminarayana,
R/o.D.No.27-11-33, Mary Street, Governorpet, Vijayawada-520 001,
Krishna District.

.....RESPONDENTS

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

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WRIT PETITION NO : 9718 of 2001

O R D E R:

This writ petition is filed under Article 226 of the Constitution of India seeking a Mandamus declaring the action of the 1st respondent-Corporation in not initiating any action for the illegal constructions being made by the 2nd respondent without obtaining approved plan or permission from the 1st respondent as illegal and arbitrary.

The writ petitioner is having a house bearing D.No.237-11-32, Mary Street, Governorpet, Vijayawada. It is the case of the writ petitioner that on 07-05-2001 the 2nd respondent who is his neighbour on the northern side of his house started illegal constructions without obtaining permission from the respondent–corporation. Accordingly, the writ petitioner made a representation dated 09-05-2001 as well as telegraphic notice dated 10-05-2001. The grievance of the petitioner is that even after the said representation, the 1st respondent-Corporation did not take any action and taking advantage of the same, the 2nd respondent proceeding with the construction speedily. Aggrieved by the same, the present writ petition has been filed.

After receipt of the notice, the 1st respondent-Corporation filed counter affidavit stating that

since the construction made by the 2nd respondent is away to the rear boundary line of the petitioner which does not create any problem to the petitioner and therefore, the illegal constructions made by the 2nd respondent is not on the side of the petitioner but towards other site. Coming to the aspect of alleged illegal constructions, the corporation had already issued a notice under UDA Act, 1975 and also caused service of the same and accordingly, the building construction equipment was seized and the working labour along with the owner was warned to stop the work. In spite of all the above efforts, it is not true to say that the Corporation has not taken any steps for the alleged illegal constructions.

Heard both sides.

On a perusal of the material available on record, it is clear that answering to the counter allegations, the petitioner did not chose to file any reply affidavit.

Having regard to the facts and circumstances of the case and taking into account the reasons stated in the counter filed by the 1st respondent-corporation, it cannot be said that the 1st respondent-corporation had not taken any steps against the 2nd respondent. Therefore, I do not see any reason to entertain the writ petition and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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02-08-2005

Mjl/*